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Contents

II *Non-legislative acts*

INTERNATIONAL AGREEMENTS

- ★ **Council Decision (EU) 2017/609 of 27 March 2017 on the conclusion, on behalf of the European Union and its Member States, of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, to take account of the accession of the Republic of Croatia to the European Union** 1

REGULATIONS

- ★ **Commission Delegated Regulation (EU) 2017/610 of 20 December 2016 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the extension of the transitional periods related to pension scheme arrangements ⁽¹⁾** 3
- ★ **Commission Implementing Regulation (EU) 2017/611 of 29 March 2017 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin** 5
- ★ **Commission Regulation (EU) 2017/612 of 30 March 2017 amending Council Regulation (EC) No 297/95 as regards the adjustment of the fees of the European Medicines Agency to the inflation rate with effect from 1 April 2017 ⁽¹⁾** 7
- Commission Implementing Regulation (EU) 2017/613 of 30 March 2017 establishing the standard import values for determining the entry price of certain fruit and vegetables 11

DECISIONS

- ★ **Council Decision (EU) 2017/614 of 21 March 2017 appointing a member, proposed by the Federal Republic of Germany, of the Committee of the Regions** 13

⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

- ★ Commission Implementing Decision (EU) 2017/615 of 30 March 2017 accepting a proposal by a group of exporting producers together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products concerning the implementation of the undertaking referred to in Implementing Decision 2013/707/EU 14

II

(Non-legislative acts)

INTERNATIONAL AGREEMENTS

COUNCIL DECISION (EU) 2017/609

of 27 March 2017

on the conclusion, on behalf of the European Union and its Member States, of a Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part, to take account of the accession of the Republic of Croatia to the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 in conjunction with Article 218(6)(a),

Having regard to the Act of Accession of the Republic of Croatia, and in particular Article 6(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament ⁽¹⁾,

Whereas:

- (1) The Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part ⁽²⁾ ('the Agreement') was signed in Luxembourg on 17 June 2002 and entered into force on 1 April 2006.
- (2) The Republic of Croatia became a Member State of the European Union on 1 July 2013.
- (3) Under the terms of Article 6(2) of the Act of Accession of the Republic of Croatia, the accession of the Republic of Croatia to the Agreement is to be agreed by means of a protocol to the Agreement concluded between the Council, acting on behalf of the Union and unanimously on behalf of the Member States, and the Lebanese Republic.
- (4) On 14 September 2012, the Council authorised the Commission to open negotiations with the Lebanese Republic. The negotiations were successfully concluded. In accordance with Council Decision (EU) 2016/859 ⁽³⁾, the Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part to take account of the accession of the Republic of Croatia to the European Union has been signed on behalf of the Union and its Member States in Brussels on 28 April 2016.
- (5) The Protocol should be approved,

⁽¹⁾ Consent of 2 March 2017 (not yet published in the Official Journal).

⁽²⁾ OJ L 143, 30.5.2006, p. 2.

⁽³⁾ OJ L 144, 1.6.2016, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The Protocol to the Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the Republic of Lebanon, of the other part to take account of the accession of the Republic of Croatia to the European Union is hereby approved on behalf of the Union and its Member States ⁽¹⁾.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 7 of the Protocol, in order to express the consent of the Union to be bound by the Protocol ⁽²⁾.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 27 March 2017.

For the Council

The President

C. ABELA

⁽¹⁾ The text has been published in OJ L 144 of 1.6.2016, p. 3, together with the decision on signature.

⁽²⁾ The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2017/610

of 20 December 2016

amending Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the extension of the transitional periods related to pension scheme arrangements

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories ⁽¹⁾ and in particular Article 85(2) thereof,

Whereas:

- (1) Central counterparties (CCPs) interpose themselves between counterparties to the contracts traded on one or more financial markets. The credit risk of those counterparties is mitigated through the posting of collateral which is calculated to cover any potential losses upon a default. CCPs accept only highly liquid assets, generally cash, as collateral to meet variation margin (VM) calls in order to allow for a rapid liquidation in the event of a default.
- (2) Pension Scheme Arrangements (PSAs) in many Member States are active participants in the OTC derivatives markets. However, PSAs generally minimise their cash positions, instead holding higher yielding investments such as securities in order to ensure strong returns for pensioners. Entities operating pension scheme arrangements, the primary purpose of which is to provide benefits upon retirement, usually in the form of payments for life, but also as payments made for a temporary period or as a lump sum, typically minimise their allocation to cash in order to maximise the efficiency and the return for their policy holders. Hence, requiring such entities to clear OTC derivative contracts centrally would lead to divesting a significant proportion of their assets for cash in order for them to meet the ongoing margin requirements of CCPs.
- (3) Article 89(1) of Regulation (EU) No 648/2012 therefore provides that, for three years after the entry into force of that Regulation, the clearing obligation set out in Article 4 of Regulation (EU) No 648/2012 does not apply to OTC derivative contracts that are objectively measurable as reducing investment risks directly relating to the financial solvency of PSAs. The transitional period also applies to entities established for the purpose of providing compensation to members of PSAs in case of a default.
- (4) Article 85(2) of Regulation (EU) No 648/2012 requires the Commission to prepare a report assessing whether necessary efforts have been made by CCPs to develop appropriate technical solutions for the transfer of non-cash collateral as VM by PSAs. In order to carry out the assessment, the Commission ordered a baseline study on solutions for the posting of non-cash collateral to central counterparties by pension scheme arrangements, as well as on the impact of removing the exemption in the absence of a solution in terms of the reduction in retirement income for the pensioner beneficiaries of the affected PSAs. On this basis, the Commission adopted its report ⁽²⁾ on 3 February 2015.

⁽¹⁾ OJ L 201, 27.7.2012, p. 1.

⁽²⁾ Report from the Commission to the European Parliament and the Council under Article 85(2) of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, assessing the progress and effort made by CCPs in developing technical solutions for the transfer by pension scheme arrangements of non-cash collateral as variation margins, as well as the need for any measures to facilitate such solution (COM(2015) 39 final of 3 February 2015).

- (5) In accordance with the findings of its report, the Commission considered that the necessary effort to develop appropriate technical solutions has not been made by CCPs at this point in time and that the adverse effect of centrally clearing OTC derivative contracts on the retirement benefits of future pensioners remained unchanged. Consequently, Commission Delegated Regulation (EU) 2015/1515 ⁽¹⁾ extending the three-year transitional period referred to in Article 89(1) of Regulation (EU) No 648/2012 by two additional years was adopted.
- (6) Since then, the Commission has run a public consultation, which closed in August 2015, to prepare a report on the implementation of Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories, in accordance with Article 85(1) of that Regulation. The Commission has also consulted the public in a Call for Evidence on the EU regulatory framework for financial services. The outcome of the public consultation on Regulation (EU) No 648/2012 and the submissions to the Call for Evidence have confirmed that the necessary effort to develop appropriate technical solutions has not been made by CCPs at this point in time and that the adverse effect of centrally clearing OTC derivative contracts on the retirement benefits of future pensioners remains unchanged, in line with the Commission Report.
- (7) The three-year transitional period referred to in Article 89(1) of Regulation (EU) No 648/2012 should therefore be further extended.
- (8) This Regulation should enter into force as soon as possible to allow the extension of the existing transitional periods to occur prior to or as soon after expiry as possible. A later entry into force could lead to legal uncertainty for pension scheme arrangements as to whether they need to begin preparing for upcoming clearing obligations,

HAS ADOPTED THIS REGULATION:

Article 1

The first subparagraph of Article 89(1) of Regulation (EU) No 648/2012 is replaced by the following:

‘Until 16 August 2018, the clearing obligation set out in Article 4 shall not apply to OTC derivative contracts that are objectively measurable as reducing investment risks directly relating to the financial solvency of pension scheme arrangements as defined in Article 2(10). The transitional period shall also apply to entities established for the purpose of providing compensation to members of pension scheme arrangements in case of a default.’

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20 December 2016.

For the Commission

The President

Jean-Claude JUNCKER

⁽¹⁾ Commission Delegated Regulation (EU) 2015/1515 of 5 June 2015 amending Regulation (EU) No 648/2012 of the European Parliament and of the Council as regards the extension of the transitional periods related to pension scheme arrangements (OJ L 239, 15.9.2015, p. 63).

COMMISSION IMPLEMENTING REGULATION (EU) 2017/611**of 29 March 2017****amending Regulation (EC) No 1484/95 as regards fixing representative prices in the poultrymeat and egg sectors and for egg albumin**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾, and in particular Article 183(b) thereof,

Having regard to Regulation (EU) No 510/2014 of the European Parliament and of the Council of 16 April 2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products and repealing Council Regulations (EC) No 1216/2009 and (EC) No 614/2009 ⁽²⁾, and in particular Article 5(6)(a) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1484/95 ⁽³⁾ lays down detailed rules for implementing the system of additional import duties and fixes representative prices in the poultrymeat and egg sectors and for egg albumin.
- (2) Regular monitoring of the data used to determine representative prices for poultrymeat and egg products and for egg albumin shows that the representative import prices for certain products should be amended to take account of variations in price according to origin.
- (3) Regulation (EC) No 1484/95 should therefore be amended accordingly.
- (4) Given the need to ensure that this measure applies as soon as possible after the updated data have been made available, this Regulation should enter into force on the day of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EC) No 1484/95 is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 March 2017.

For the Commission,

On behalf of the President,

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 150, 20.5.2014, p. 1.

⁽³⁾ Commission Regulation (EC) No 1484/95 of 28 June 1995 laying down detailed rules for implementing the system of additional import duties and fixing representative prices in the poultrymeat and egg sectors and for egg albumin, and repealing Regulation No 163/67/EEC (OJ L 145, 29.6.1995, p. 47).

ANNEX

‘ANNEX I

CN code	Description	Representative price (EUR/100 kg)	Security under Article 3 (EUR/100 kg)	Origin ⁽¹⁾
0207 12 10	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “70 % chickens”, frozen	119,3	0	AR
0207 12 90	Fowls of the species <i>Gallus domesticus</i> , not cut in pieces, presented as “65 % chickens”, frozen	136,3	0	AR
		140,9	0	BR
0207 14 10	Fowls of the species <i>Gallus domesticus</i> , boneless cuts, frozen	284,4	5	AR
		193,2	33	BR
		298,6	0	CL
		235,5	19	TH
0207 27 10	Turkeys, boneless cuts, frozen	381,1	0	BR
		302,9	0	CL
0408 91 80	Eggs, not in shell, dried	350,0	0	AR
1602 32 11	Preparations of fowls of the species <i>Gallus domesticus</i> , uncooked	174,6	37	BR

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). The code “ZZ” represents “other origins”.

COMMISSION REGULATION (EU) 2017/612**of 30 March 2017****amending Council Regulation (EC) No 297/95 as regards the adjustment of the fees of the European Medicines Agency to the inflation rate with effect from 1 April 2017****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 297/95 of 10 February 1995 on fees payable to the European Agency for the Evaluation of Medicinal Products ⁽¹⁾, and in particular the fifth paragraph of Article 12 thereof,

Whereas:

- (1) In accordance with Article 67(3) of Regulation (EC) No 726/2004 of the European Parliament and of the Council ⁽²⁾, the revenue of the European Medicines Agency consists of a contribution from the Union and fees paid to it by undertakings. Regulation (EC) No 297/95 lays down the categories and levels of such fees.
- (2) Those fees should be updated by reference to the inflation rate of 2016. The inflation rate in the Union, as published by the Statistical Office of the European Union, was 1,2 % in 2016.
- (3) For the sake of simplicity, the adjusted levels of the fees should be rounded to the nearest EUR 100.
- (4) Regulation (EC) No 297/95 should therefore be amended accordingly.
- (5) For reasons of legal certainty, this Regulation should not apply to valid applications which are pending on 1 April 2017.
- (6) In accordance with Article 12 of Regulation (EC) No 297/95, the update is to be made with effect from 1 April 2017. It is therefore appropriate that this Regulation enters into force as a matter of urgency and applies from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 297/95 is amended as follows:

(1) Article 3 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is amended as follows:

- in the first subparagraph, 'EUR 278 800' is replaced by 'EUR 282 100',
- in the second subparagraph, 'EUR 28 000' is replaced by 'EUR 28 300',
- in the third subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100',

⁽¹⁾ OJ L 35, 15.2.1995, p. 1.

⁽²⁾ Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ L 136, 30.4.2004, p. 1).

- (ii) point (b) is amended as follows:
 - in the first subparagraph, 'EUR 108 200' is replaced by 'EUR 109 500',
 - in the second subparagraph, 'EUR 180 200' is replaced by 'EUR 182 400',
 - in the third subparagraph, 'EUR 10 800' is replaced by 'EUR 10 900',
 - in the fourth subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100',
- (iii) point (c) is amended as follows:
 - in the first subparagraph, 'EUR 83 700' is replaced by 'EUR 84 700',
 - in the second subparagraph, 'EUR 20 900 to EUR 62 700' is replaced by 'EUR 21 200 to EUR 63 500',
 - in the third subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100';
- (b) paragraph 2 is amended as follows:
 - (i) in the first subparagraph of point (a) 'EUR 7 000' is replaced by 'EUR 7 100',
 - (ii) point (b) is amended as follows:
 - in the first subparagraph, 'EUR 83 700' is replaced by 'EUR 84 700',
 - in the second subparagraph, 'EUR 20 900 to EUR 62 700' is replaced by 'EUR 21 200 to EUR 63 500';
- (c) in paragraph 3, 'EUR 13 800' is replaced by 'EUR 14 000';
- (d) in paragraph 4, 'EUR 20 900' is replaced by 'EUR 21 200';
- (e) in paragraph 5, 'EUR 7 000' is replaced by 'EUR 7 100';
- (f) paragraph 6 is amended as follows:
 - (i) in the first subparagraph, 'EUR 100 000' is replaced by 'EUR 101 200',
 - (ii) in the second subparagraph, 'EUR 24 900 to EUR 74 900' is replaced by 'EUR 25 200 to EUR 75 800';
- (2) in the first paragraph of Article 4, 'EUR 69 400' is replaced by 'EUR 70 200';
- (3) Article 5 is amended as follows:
 - (a) paragraph 1 is amended as follows:
 - (i) point (a) is amended as follows:
 - in the first subparagraph, 'EUR 139 600' is replaced by 'EUR 141 300',
 - in the second subparagraph, 'EUR 13 800' is replaced by 'EUR 14 000',
 - in the third subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100',
 - the fourth subparagraph is amended as follows:
 - 'EUR 69 400' is replaced by 'EUR 70 200',
 - 'EUR 7 000' is replaced by 'EUR 7 100';
 - (ii) point (b) is amended as follows:
 - in the first subparagraph, 'EUR 69 400' is replaced by 'EUR 70 200',
 - in the second subparagraph, 'EUR 117 800' is replaced by 'EUR 119 200',
 - in the third subparagraph, 'EUR 13 800' is replaced by 'EUR 14 000',
 - in the fourth subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100',

- the fifth subparagraph is amended as follows:
 - 'EUR 34 900' is replaced by 'EUR 35 300',
 - 'EUR 7 000' is replaced by 'EUR 7 100';
- (iii) point (c) is amended as follows:
 - in the first subparagraph, 'EUR 34 900' is replaced by 'EUR 35 300',
 - in the second subparagraph, 'EUR 8 700 to EUR 26 200' is replaced by 'EUR 8 800 to EUR 26 500',
 - in the third subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100';
- (b) paragraph 2 is amended as follows:
 - (i) in the first subparagraph of point (a), 'EUR 7 000' is replaced by 'EUR 7 100';
 - (ii) point (b) is amended as follows:
 - in the first subparagraph, 'EUR 41 800' is replaced by 'EUR 42 300',
 - in the second subparagraph, 'EUR 10 500 to EUR 31 500' is replaced by 'EUR 10 600 to EUR 31 900',
 - in the third subparagraph, 'EUR 7 000' is replaced by 'EUR 7 100';
- (c) in paragraph 3, 'EUR 7 000' is replaced by 'EUR 7 100';
- (d) in paragraph 4, 'EUR 20 900' is replaced by 'EUR 21 200';
- (e) in paragraph 5, 'EUR 7 000' is replaced by 'EUR 7 100';
- (f) paragraph 6 is amended as follows:
 - (i) in the first subparagraph, 'EUR 33 400' is replaced by 'EUR 33 800',
 - (ii) in the second subparagraph, 'EUR 8 300 to EUR 24 900' is replaced by 'EUR 8 400 to EUR 25 200';
- (4) in the first paragraph of Article 6, 'EUR 41 800' is replaced by 'EUR 42 300';
- (5) Article 7 is amended as follows:
 - (a) in the first paragraph, 'EUR 69 400' is replaced by 'EUR 70 200',
 - (b) in the second paragraph, 'EUR 20 900' is replaced by 'EUR 21 200';
- (6) Article 8 is amended as follows:
 - (a) paragraph 1 is amended as follows:
 - (i) in the second subparagraph, 'EUR 83 700' is replaced by 'EUR 84 700',
 - (ii) in the third subparagraph, 'EUR 41 800' is replaced by 'EUR 42 300',
 - (iii) in the fourth subparagraph, 'EUR 20 900 to EUR 62 700' is replaced by 'EUR 21 200 to EUR 63 500',
 - (iv) in the fifth subparagraph, 'EUR 10 500 to EUR 31 500' is replaced by 'EUR 10 600 to EUR 31 900';
 - (b) paragraph 2 is amended as follows:
 - (i) in the second subparagraph, 'EUR 278 800' is replaced by 'EUR 282 100',
 - (ii) in the third subparagraph, 'EUR 139 600' is replaced by 'EUR 141 300',
 - (iii) in the fifth subparagraph, 'EUR 3 000 to EUR 240 300' is replaced by 'EUR 3 000 to EUR 243 200',
 - (iv) in the sixth subparagraph, 'EUR 3 000 to EUR 120 300' is replaced by 'EUR 3 000 to EUR 121 700';
 - (c) in the first subparagraph of paragraph 3, 'EUR 7 000' is replaced by 'EUR 7 100'.

Article 2

This Regulation shall not apply to valid applications pending on 1 April 2017.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 April 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 March 2017.

For the Commission

The President

Jean-Claude JUNCKER

COMMISSION IMPLEMENTING REGULATION (EU) 2017/613**of 30 March 2017****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 ⁽¹⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 March 2017.

*For the Commission,
On behalf of the President,
Jerzy PLEWA
Director-General
Directorate-General for Agriculture and Rural Development*

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	EG	288,4
	IL	288,6
	MA	109,9
	TN	200,0
	TR	108,5
	ZA	81,7
	ZZ	179,5
0707 00 05	TR	158,2
	ZZ	158,2
0709 93 10	MA	53,9
	TR	148,2
	ZZ	101,1
0805 10 22, 0805 10 24, 0805 10 28	EG	48,5
	IL	80,7
	MA	49,6
	TN	59,2
	TR	77,4
	ZA	99,3
	ZZ	69,1
0805 50 10	TR	74,4
	ZZ	74,4
0808 10 80	BR	111,8
	CL	116,3
	US	105,8
	ZA	114,1
	ZZ	112,0
0808 30 90	AR	117,2
	CL	137,4
	CN	74,5
	MA	115,2
	ZA	130,7
	ZZ	115,0

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU) 2017/614

of 21 March 2017

appointing a member, proposed by the Federal Republic of Germany, of the Committee of the Regions

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 305 thereof,

Having regard to the proposal of the German Government,

Whereas:

- (1) On 26 January 2015, 5 February 2015 and 23 June 2015, the Council adopted Decisions (EU) 2015/116 ⁽¹⁾, (EU) 2015/190 ⁽²⁾ and (EU) 2015/994 ⁽³⁾ appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020.
- (2) A member's seat on the Committee of the Regions has become vacant following the end of the term of office of Ms Hella DUNGER-LÖPER,

HAS ADOPTED THIS DECISION:

Article 1

The following is hereby appointed as a member of the Committee of the Regions for the remainder of the current term of office, which runs until 25 January 2020:

— Mr Gerry WOOP, *Staatssekretär für Europa (Land Berlin)*.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 21 March 2017.

For the Council

The President

E. SCICLUNA

⁽¹⁾ Council Decision (EU) 2015/116 of 26 January 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 20, 27.1.2015, p. 42).

⁽²⁾ Council Decision (EU) 2015/190 of 5 February 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 31, 7.2.2015, p. 25).

⁽³⁾ Council Decision (EU) 2015/994 of 23 June 2015 appointing the members and alternate members of the Committee of the Regions for the period from 26 January 2015 to 25 January 2020 (OJ L 159, 25.6.2015, p. 70).

COMMISSION IMPLEMENTING DECISION (EU) 2017/615**of 30 March 2017****accepting a proposal by a group of exporting producers together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products concerning the implementation of the undertaking referred to in Implementing Decision 2013/707/EU**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('the Treaty'),

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic anti-dumping Regulation'), and in particular Article 8 thereof,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽²⁾ ('the basic anti-subsidy Regulation'), and in particular Article 13 thereof,

After consulting the Committee established by Article 15 of the basic anti-dumping and Article 25 of the basic anti-subsidy Regulation,

Whereas:

A. PROCEDURE

- (1) By Regulation (EU) No 513/2013 ⁽³⁾, the European Commission ('the Commission') imposed a provisional anti-dumping duty on imports into the European Union ('the Union') of crystalline silicon photovoltaic modules ('modules') and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China ('the PRC').
- (2) A group of exporting producers gave a mandate to the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('CCCME') to submit a price undertaking on their behalf to the Commission, which they did. It is clear from the terms of that price undertaking that it constitutes a bundle of individual price undertakings for each exporting producer, which is, for reasons of practicality of administration, coordinated by the CCCME.
- (3) By Decision 2013/423/EU ⁽⁴⁾, the Commission accepted that price undertaking with regard to the provisional anti-dumping duty. By Regulation (EU) No 748/2013 ⁽⁵⁾, the Commission amended Regulation (EU) No 513/2013 to introduce the technical changes necessary due to the acceptance of the undertaking with regard to the provisional anti-dumping duty.
- (4) By Implementing Regulation (EU) No 1238/2013 ⁽⁶⁾, the Council imposed a definitive anti-dumping duty on imports into the Union of modules and cells originating in or consigned from the PRC ('the products concerned'). By Implementing Regulation (EU) No 1239/2013 ⁽⁷⁾, the Council also imposed a definitive countervailing duty on imports into the Union of the products concerned.
- (5) Following the notification of an amended version of the price undertaking by a group of exporting producers ('the exporting producers') together with the CCCME, the Commission confirmed by Implementing Decision 2013/707/EU ⁽⁸⁾ the acceptance of the price undertaking as amended ('the undertaking') for the period of application of definitive measures.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 176, 30.6.2016, p. 55.

⁽³⁾ OJ L 152, 5.6.2013, p. 5.

⁽⁴⁾ OJ L 209, 3.8.2013, p. 26.

⁽⁵⁾ OJ L 209, 3.8.2013, p. 1.

⁽⁶⁾ OJ L 325, 5.12.2013, p. 1.

⁽⁷⁾ OJ L 325, 5.12.2013, p. 66.

⁽⁸⁾ OJ L 325, 5.12.2013, p. 214.

- (6) By Implementing Decision 2014/657/EU ⁽¹⁾ the Commission accepted a proposal by the exporting producers together with the CCCME for clarifications concerning the implementation of the undertaking for the products concerned covered by the undertaking, that is modules and cells originating in or consigned from the PRC, currently falling within CN codes ex 8541 40 90 (TARIC codes 8541 40 90 21, 8541 40 90 29, 8541 40 90 31 and 8541 40 90 39) produced by the exporting producers ('product covered'). The anti-dumping and countervailing duties referred to in recital 4 above, together with the undertaking, are jointly referred to as 'measures'.
- (7) By Implementing Regulation (EU) 2015/866 ⁽²⁾ the Commission withdrew the acceptance of the undertaking for three exporting producers.
- (8) By Implementing Regulation (EU) 2015/1403 ⁽³⁾ the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (9) By Implementing Regulation (EU) 2015/2018 ⁽⁴⁾ the Commission withdrew the acceptance of the undertaking for two exporting producers.
- (10) The Commission initiated an expiry review investigation of the anti-dumping measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁵⁾ on 5 December 2015.
- (11) The Commission initiated an expiry review investigation of the countervailing measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁶⁾ on 5 December 2015.
- (12) The Commission also initiated a partial interim review on the form of the measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁷⁾ on 5 December 2015.
- (13) By Implementing Regulation (EU) 2016/115 ⁽⁸⁾ the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (14) By Implementing Regulation (EU) 2016/185 ⁽⁹⁾, the Commission extended the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 1238/2013 on imports of the products concerned originating in or consigned from the People's Republic of China to imports of the products concerned consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not.
- (15) By Implementing Regulation (EU) 2016/184 ⁽¹⁰⁾, the Commission extended the definitive countervailing duty imposed by Implementing Regulation (EU) No 1239/2013 on imports of the products concerned originating in or consigned from the People's Republic of China to imports of the products concerned consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not.
- (16) By Implementing Regulation (EU) 2016/1045 ⁽¹¹⁾ the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (17) By Implementing Regulation (EU) 2016/1382 ⁽¹²⁾ the Commission withdrew the acceptance of the undertaking for another five exporting producers.

⁽¹⁾ OJ L 270, 11.9.2014, p. 6.

⁽²⁾ OJ L 139, 5.6.2015, p. 30.

⁽³⁾ OJ L 218, 19.8.2015, p. 1.

⁽⁴⁾ OJ L 295, 12.11.2015, p. 23.

⁽⁵⁾ OJ C 405, 5.12.2015, p. 8.

⁽⁶⁾ OJ C 405, 5.12.2015, p. 20.

⁽⁷⁾ OJ C 405, 5.12.2015, p. 33.

⁽⁸⁾ OJ L 23, 29.1.2016, p. 47.

⁽⁹⁾ OJ L 37, 12.2.2016, p. 76.

⁽¹⁰⁾ OJ L 37, 12.2.2016, p. 56.

⁽¹¹⁾ OJ L 170, 29.6.2016, p. 5.

⁽¹²⁾ OJ L 222, 17.8.2016, p. 10.

- (18) By Implementing Regulation (EU) 2016/1402 ⁽¹⁾ the Commission withdrew the acceptance of the undertaking for another three exporting producers.
- (19) By Implementing Regulation (EU) 2016/1998 ⁽²⁾ the Commission withdrew the acceptance of the undertaking for another five exporting producers.
- (20) By Implementing Regulation (EU) 2016/2146 ⁽³⁾ the Commission withdrew the acceptance of the undertaking for another two exporting producers.
- (21) Following the expiry and interim reviews referred to in recitals 10-12, the Commission maintained the measures in force by Implementing Regulation (EU) 2017/366 ⁽⁴⁾ and Implementing Regulation (EU) No 2017/367 ⁽⁵⁾.
- (22) The Commission also initiated a partial interim review on the form of measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁶⁾ on 3 March 2017.
- (23) By Implementing Regulation (EU) 2017/454 ⁽⁷⁾ the Commission withdrew the acceptance of the undertaking for four exporting producers.

B. UNDERTAKING

1. Implementation of the undertaking

- (24) On the basis of the provisions of the undertaking, the exporting producers together with the CCCME requested consultations with the Commission on 6 March 2017. The exporting producers and the CCCME argued that the MIP should be maintained at its current level until the completion of the partial interim review referred to in recital 22.
- (25) In their notification, the exporting producers and the CCCME recalled that the aim of the ongoing partial interim review, initiated by the Commission on its own initiative, is amongst others to investigate as to whether the undertaking based on the MIP (subject to a periodic adaptation mechanism) can be still considered as an appropriate form for the measures. As it is linked to the adaptation mechanism, the MIP should be maintained at its current level to avoid any interference with the ongoing partial interim review throughout its duration.
- (26) The CCCME's notification was made available to interested parties in order to allow them to exercise their rights of defence in relation to maintaining the MIP at its current level for the duration of the interim review referred to in recital 22.

2. Written submissions and assessment

- (27) One party claimed that the CCCME's proposal is a violation of the provisions of the undertaking that foresee that any changes to the undertaking should be introduced via an interim review during which all provisions of the undertaking remain in force. That party further claimed that the adaptation mechanism is automatic and that there is no practical reason to maintain the MIP at the current level pending the outcome of the ongoing interim review.
- (28) The Commission notes first and foremost that the clause of the undertaking that the party referred to explicitly excludes from its scope the provisions on adaptation.

⁽¹⁾ OJ L 228, 23.8.2016, p. 16.

⁽²⁾ OJ L 308, 16.11.2016, p. 8.

⁽³⁾ OJ L 333, 8.12.2016, p. 4.

⁽⁴⁾ OJ L 56, 3.3.2017, p. 1.

⁽⁵⁾ OJ L 56, 3.3.2017, p. 131.

⁽⁶⁾ OJ C 67, 3.3.2017, p. 16.

⁽⁷⁾ OJ L 71, 16.3.2017, p. 5.

- (29) Further, it is the *operation* of the MIP adaptation system that has been indeed designed as automatic. The ongoing interim review on the form of measures touches the core of the existing measure but its aim is not per se to revise the content of the undertaking. All the provisions of the undertaking remain in force. The automatism of the operation of the adaptation mechanism does not prevent a party that offered the undertaking to request a modification, even more so a temporary one. The modification is solely a temporary maintaining of the MIP at the current level pending the outcome of the interim review on the form of measures.
- (30) The party also referred to a review investigation concluded by the Commission by an Implementing Regulation (EU) 2016/12 ⁽¹⁾. That review, however, was requested by a party external to the undertaking and aimed at exploring an alternative price benchmark for the adaptation mechanism (a secondary option not immediately operational). The current interim review focuses on the need to reconsider the form of the measures as such. Finally, the Commission points out that on another occasion the MIP was maintained at the same level ⁽²⁾ pending adoption of the clarification Implementing Decision 2014/657/EU.
- (31) On the basis of the above, the claims of the party are hereby rejected.

3. Acceptance of maintaining the MIP at the current level for the duration of the ongoing interim review

- (32) Therefore, on the basis of the notification by the exporting producers and the CCCME, the Commission considers appropriate to accept the proposed freeze of the MIP until the completion of the ongoing partial interim review referred to in recital 22 and to close consultations with the exporting producers together with the CCCME,

HAS ADOPTED THIS DECISION:

Article 1

The proposal to maintain the MIP at the level applicable in March 2017 for the undertaking accepted from the exporting producers listed in the Annex to Implementing Decision 2013/707/EU, as subsequently amended, together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China pending the conclusion of the partial interim review initiated by the Commission ⁽³⁾ is hereby accepted.

Article 2

This Decision shall enter into force the day following its publication in the *Official Journal of the European Union*.

Done at Brussels, 30 March 2017.

For the Commission
The President
Jean-Claude JUNKER

⁽¹⁾ OJ L 4, 7.1.2016, p. 1.

⁽²⁾ Letter of 13 June 2014 made available for inspection by interested parties

⁽³⁾ OJ C 67, 3.3.2017, p. 16.

